

DRAFT 8/15/13

TOWN OF WESTON
CHARTER REVISION COMMISSION
REPORT
AUGUST 14, 2013

Woody Bliss, Co-Chair
Kenneth C. Edgar, Jr., Co-Chair
Dennis Brooks
Nina R. Daniel
Arne J. de Keijzer
Michael O'Brien
John Stripp

REPORT OF THE COMMISSION

A. BACKGROUND

The Town Charter and the ordinances established thereunder, along with applicable State and federal law, govern the administration of the Town's affairs.

The Town Charter of the Town of Weston was originally adopted in 1967, and was amended in 1976, 1979, 2003, and substantially rewritten in 2012. On May 16, 2013, the Town's Board of Selectmen, by resolution, formed a Charter Revision Commission to address areas of the Charter that the Selectmen subsequently identified as potentially needing further review. The Selectmen required the Commission to submit its draft Report on or before September 13, 2013. A copy of the Resolution is attached as Appendix A.

Pursuant to the Resolution, the Board of Selectmen appointed the following individuals to the Charter Revision Commission: Woody Bliss, Dennis Brooks, Nina R. Daniel, Arne J. de Keijzer, Kenneth C. Edgar, Jr., Michael O'Brien and John Stripp.

B. ORGANIZATIONAL AND PROCEDURAL MEETING OF THE COMMISSION; PUBLIC HEARINGS

At its organizational meeting, held June 14, 2013, the Commission unanimously elected Woody Bliss and Kenneth C. Edgar, Jr. as Co-Chairs of the Commission.

Under Connecticut Law, the Commission was required to hold at least one public hearing prior to beginning its substantive work on the Charter, and one public hearing before it submitted its Report to the Selectmen. The Commission held its first public hearing on June 26, 2013.

C. COMMENCEMENT OF SUBSTANTIVE WORK

The first meeting of the Commission regarding the substance of the Charter was held on June 27, 2013. The Commission reviewed issues submitted to it by the Selectmen. The letter from the First Selectmen identifying such issues is attached as Appendix B. In addition, the Commission considered comments received from the public.

D. AREAS OF THE CHARTER ADDRESSED BY THE COMMISSION

1. Changes Recommended by the Selectmen

a. Elimination of Limited Public Notice Requirement

(Section 8.3(a)). The Selectmen requested that the portion of Section 8.3(a) requiring the Selectmen give public notice of the expiration of the term of office of a Town officer appointed pursuant to Section 8.2(a) be deleted. The Selectmen's reasoning was that the officers are generally Town employees, and it was not appropriate for the Selectmen to be required to give notice of the expiration of the officers' applicable terms, particularly in the instance where these officers' positions were the subject of collective bargaining or where the Selectmen felt that the officers' employment should be continued.

The Commission agreed to recommend this change to the Charter.

b. Procedure Should a Quorum not be Present at the

Annual Town Budget Meeting (Section 9.5(d)(ii)). Under the Charter, appropriations recommended by the Board of Finance may not be reduced by the Annual Town Budget Meeting unless two percent of the Town's qualified voters are present at the Meeting. (The Charter further provides that such recommended appropriations may not be increased by the Annual Town Budget Meeting.)

The Selectmen pointed out that while the Panel of Moderators Handbook provides that a "point of no quorum" may be raised at any time, it is not clear what the procedure is at the Annual Town Budget Meeting should no quorum be present.

The Commission members felt that the following process should be in place regarding the two percent "quorum" requirement. First, the Commission felt that basing the two percent calculation on the number of "Qualified Voters," as required by the Charter, was not appropriate, because that number is difficult to calculate (including as it does certain property holders), and clarity and accuracy are essential in determining whether a quorum is present. The Commission felt that a quorum of two percent of "Resident Electors" (i.e. registered voters) made the calculation more certain to be accurate. This calculation would be performed at the close of business on the day prior to the Annual Town Budget Meeting. (We note that a minority of the Commission members felt that the quorum requirement should be eliminated or that the level of the required quorum be reduced to 50 voters. See discussion below under "Changes Discussed, but Not Recommended by the Commission.")

The Commission also felt that the Charter should require that the presence or absence of a quorum at the Annual Town Budget Meeting be determined one time, at the beginning of the Meeting. If two percent or more of the registered voters are present at that time, the Meeting can proceed as usual, until its conclusion. If fewer than two percent of the registered voters are present at that time, the meeting is adjourned, and machine voting will commence pursuant to Section 9.6 of the Charter relating to the Annual Town Budget Referendum, since at that point the

appropriations recommended by the Board of Finance can neither be increased nor decreased by the Annual Town Budget Meeting.

2. Changes Adopted After Public Comment or By the Commission After Analysis

- a. **Election of Chairman and Vice-Chairman of the Board of Education.** The Board of Education is required by State law to elect certain of its officers within one month after the date that newly elected members take office, making it impossible for that Board to comply with the Charter's requirement that Boards elect their officers in January.

The Commission agreed to recommend that the prior Charter's requirement that the Board elect its officers not later than January 1 be reinstated.

- b. **Election of Chairman and Vice-Chairman of Newly-Constituted Appointed Boards. (Section 8.3(b)).** Under the Charter, the Board of Selectmen have the ability to form new appointed Boards and Commissions (Section 4.2(b)). Currently, Section 8.3(b) of the Charter requires that all appointed Boards and Commissions elect their officers during the month of January. For newly created Boards or Commissions, this may mean that they are without officers until the following January.

Under the prior Charter, newly constituted Boards or Commissions were required to elect a Chairman and Vice-Chairman by their second meeting. The Commission felt that it was appropriate to reinstate this prior requirement in order to avoid the situation where the new Board or Commission might be without officers for several months.

3. Changes Discussed, but Not Recommended by the Commission

The following changes were discussed by, but ultimately not recommended by, the Commission:

- a. **Proposal to Eliminate or Reduce the Quorum Requirement at the Annual Town Budget Meeting.** The Commission discussed modifying or eliminating the requirement that a quorum of two percent of the voters be present in order for any appropriation recommended by the Board of Finance to be reduced. Such modification or elimination was supported by Commissioners Bliss, Daniel

and Stripp. The proponents of such modification or elimination argued that imposing a quorum was undemocratic because, lacking a quorum, those who attended the Annual Town Budget Meeting would be deprived of their right to vote to reduce the budget. This, they felt, would also discourage attendance at the Annual Town Budget Meeting, and might result in the ultimate demise of the Annual Town Budget Meeting. Some also felt that the quorum requirement allowed there to be a “gaming” of the system by deliberately holding back attendance to avoid the presence of a quorum, thus frustrating the ability of the voters who attended the meeting to act.

After discussion, a majority of Board members felt that the quorum requirement should be retained, at its current level, with minor modifications discussed above. This issue was thoroughly analyzed by the prior Charter Commission, which unanimously recommended that the quorum be imposed. The new Charter has been in place for less than a year, and it is at best premature to determine the long-term effect of the quorum requirement. The majority of members felt that the issues raised at this year’s Annual Town Budget Meeting regarding the operation of the two percent quorum requirement are adequately addressed by the Charter amendments discussed above in this Report. The presence of a mandatory referendum assures that every voter will have the opportunity to express his or her view regarding the budget; therefore the current system is not undemocratic. Accordingly, the majority of the Commission’s members were not persuaded to modify or eliminate the quorum requirement. It may be appropriate, after a period of years has elapsed, to reanalyze the quorum requirement in light of the Town’s experience over that period. (We note that the original Town Charter (adopted in 1967) contained a quorum requirement, which was subsequently modified in 1976, eliminated in 1979, and restored to its current level in 2012.)

- b. **Proposal that the Mandatory Annual Budget Referendum Be Eliminated.** The Commission received one suggestion that the Charter’s requirement that a budget referendum be required each year be eliminated. The rationale for this suggestion is that the expense of conducting the referendum is not warranted when the turnout is low, and if the public wanted to conduct a referendum, a mechanism exists under State law for the public to require a referendum in a particular year.

Again, the Commission felt that the mandatory referendum had only been effect for less than a year, and to eliminate it now, before its longer-term effects were known would be, at best, premature. The Commission also felt, as did the prior Commission,

that this is the one mechanism that ensures that everyone has the opportunity to vote one way or the other on the Town's annual budget.

c. Proposal to Make the Tax Collector an Elected Position.

The Commission received one comment to the effect that the Tax Collector position should be an elected position. Since this provision was thoroughly considered by the last Charter Revision Commission, and a mechanism is already in place for the voters to make this position an elected position, the Commission did not recommend this suggestion.

d. Proposal to Amend the Title of the First Selectman.

The Commission received one proposal to change the title of "First Selectman" in the Charter to "First Selectman/Selectwoman." This suggestion was also thoroughly considered and not adopted by the prior Commission, and this Commission did not recommend this suggestion.

e. Proposal to Require a Quorum at a Town Meeting.

The Commission received one proposal to the effect that there should be a requirement for a quorum at every Town Meeting, so that a small group could not authorize a potentially large expenditure for the Town. The Commission did not recommend this suggestion.

f. Proposal that Town employees below the level of Department Head not be subject to pre-approval by the Board of Selectmen.

The Charter currently provides that the First Selectman may generally hire or discharge Town employees below the level of department head, but the Charter also provides that this authority is subject to the general policy direction of the Board of Selectmen, as well as the prior concurrence of the Board of Selectmen. The First Selectman suggested that the latter provision (requiring prior concurrence) would unduly complicate the hiring and discharge process for such employees. The Commission declined to adopt this suggestion because it felt that the subject was adequately covered by the Charter.

E. TEXT OF THE PROPOSED AMENDMENTS AND AMENDED AND RESTATED CHARTER

The text of the proposed amendments to the Charter recommended by the Commission is attached as Appendix C, and a copy of the full Charter, amended and restated to include all of the Commission's recommended changes, is attached as Appendix D.